

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>24-</u>
v.	:	DATE FILED: <u>2024</u>
JEFFREY THIES	:	VIOLATIONS:
	:	18 U.S.C. § 2320(a)(1) (trafficking in
	:	counterfeit goods – 2 counts)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all times material to this indictment:

1. The United States Patent and Trademark Office (“USPTO”) is an agency of the United States that provides for the examination and registration of trademarks and the dissemination of trademark information. Through the registration of trademarks, the USPTO assists businesses in protecting their investments, promoting goods and services, and safeguarding consumers against confusion and deception in the marketplace. Registration of a producer’s trademark on the USPTO’s principal register gives notice to the world of the producer’s exclusive right to use and to protect that trademark.
2. A trademark is a word, name, phrase, symbol, or device or any combination of such items, intended to identify and distinguish one producer’s goods from those of other producers and to indicate the source of the goods. In short, a trademark is a brand name.

3. A counterfeit mark is: (a) a spurious mark used in connection with trafficking in goods; (b) identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the USPTO and in use, whether or not the defendant knew such mark was registered; and (c) the use of which was likely to cause confusion, to cause mistake, or to deceive.

4. Pfizer, Inc. (“Pfizer”), was a United States company that had its principal place of business in New York, NY. Pfizer was the owner of several trademarks registered with the USPTO, including “Viagra.” Viagra® was the trade name for Pfizer, Inc.’s FDA-approved erectile dysfunction drug containing the active ingredient sildenafil citrate.

5. Eli Lilly & Company (“Eli Lilly”) was a United States company that had its principal place of business in Indianapolis, Indiana. Eli Lilly was the owner of several trademarks registered with the USPTO, including “Cialis.” Cialis® was the trade name for an FDA-approved erectile dysfunction drug manufactured by Eli Lilly that contained the active ingredient tadalafil.

6. Pfizer and Eli Lilly registered their respective trademarks on the principal register of the USPTO. Pfizer and Eli Lilly marked their products with their registered trademarks to distinguish them from their competitors’ products, and to assure the public of their products’ quality and authenticity. All of Pfizer’s and Eli Lilly’s respective trademarks were registered with the USPTO at all times relevant to this indictment.

7. At no time did Pfizer and Eli Lilly authorize, ratify, or acquiesce to the use of their trademarks by defendant JEFFREY THIES, nor did any other person have the power to do so.

8. Defendant JEFFREY THIES obtained unmarked capsules and the active ingredients sildenafil and tadalafil from China and India to manufacture and sell capsules called “Superman,” “Black Mamba” and “Blue Rhino” to customers in the United States.

9. Defendant JEFFREY THIES obtained counterfeit Viagra® and Cialis® and smuggled these counterfeit pharmaceuticals into the United States for sale to customers in the United States.

10. On or about December 18, 2020, in Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

JEFFREY THIES

intentionally trafficked, attempted to traffic, and aided and abetted the trafficking of, counterfeit goods, specifically, 10 tablets purporting to be Viagra®, all of which were counterfeit, and knowingly used on and in connection with such goods counterfeit marks, that is spurious marks that were identical with and substantially indistinguishable from marks that were in use and registered on the principal register in the USPTO, the use of which counterfeit marks was likely to cause confusion, to cause mistake, and to deceive.

In violation of Title 18, United States Code, Sections 2320(a)(1) and 2.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 9 of Count One are incorporated here.
2. On or about January 11, 2023, in Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

JEFFREY THIES

intentionally trafficked, possessed with intent to traffic, attempted to traffic, and aided and abetted the trafficking of, counterfeit goods, specifically, 90 tablets purporting to be Viagra®, and 90 tablets purporting to be Cialis®, all of which were counterfeit, and knowingly used on and in connection with such goods counterfeit marks, that is spurious marks that were identical with and substantially indistinguishable from marks that were in use and registered on the principal register in the USPTO, the use of which counterfeit marks was likely to cause confusion, to cause mistake, and to deceive.

In violation of Title 18, United States Code, Sections 2320(a)(1) and 2.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 2320(a)(1), set forth in this indictment, defendant

JEFFREY THIES

shall forfeit to the United States of America:

(a) Any article, the making or trafficking of which is, prohibited under 18 U.S.C. § 2320;

(b) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of a violation of 18 U.S.C. § 2320; and/or

(c) Any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property that cannot be divided without difficulty,

it is the intent of the United States, pursuant to Title 18, United States Code, Section 2323(c) incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Sections 981(a), and 2323(b).

A TRUE BILL:



Christine C. Romero

JACQUELINE C. ROMERO
UNITED STATES ATTORNEY

No. _____

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

Criminal Division

THE UNITED STATES OF AMERICA

vs.

JEFFREY THIES

INDICTMENT

18 U.S.C. § 2320(a)(1) (trafficking in counterfeit goods – 2 counts)

